

Possibilities of Using Forms of “Diverse (Varied) Democracy” in the Conditions of Contemporary Russia: Constitutional Principles and Political Reality

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ABSTRACT

In the 21st century the place and role of different social institutions are changing significantly. An independent and self-sufficient person increasingly becomes a political actor and demands a broader right to participate both in public activities and specifically in making the most important decisions affecting him/her. In this connection, as well as in the conditions of active informatization and digitalization of all processes, there is a rapid increase in the volume of individual actions and an increase in the role of individual rationality, which can have both positive and negative consequences. Local self-government as an institution being the closest to citizens and able to better channel their needs is also undergoing transformation. In Russia, the aforesaid processes are taking place in a more complex and contradictory political and legal context, which requires special attention to all decisions taken on local self-government issues. The problems of local self-government are manifested especially acutely in connection with the poor understanding in the society of the role and place of this level of power in ensuring the optimal uniform quality of life in the territory of municipalities. The Constitution of the RF is currently a strong, although not free from contradictions, support of local self-government in our country.

New trends in the development of local self-government in systems with a longer history are manifested in various forms which have received the name of “diverse” (varied) democracy in the relevant studies. Its importance for the development of local democracy as a whole may become decisive in the near future.

Keywords: political actor, participation, political decision, individual rationality, transformation, support, Constitution, diverse democracy

1. Introduction

The fate of democracy in the XXI century is constantly under threat. This threat comes both from totalitarian and authoritarian political regimes and from the political and social actors who are actually the carriers of its basic ideas. The latter should primarily include the independently-minded and self-sufficient citizens who do not need any constant tutelage of the paternalistic state and are ready to solve the problems of groups of different levels and quantitative composition of participants on their own responsibility, often using their own resources or those obtained as a result of their efforts.

Based on the principle of subsidiarity, the most solution of any problem can be the most effective if it is made and implemented as close to the place of the problem occurrence as possible. Accordingly, what cannot be objectively resolved at an individual or collective level (public organizations, for example) becomes the main subject of the activities of the municipal authorities, local self-government as the closest to real life in particular territories.

As shown by the world practice, the process of making strategic decisions that determine the development of a municipality in the present and the future becomes increasingly complex and complicated today, since it is taking place in a clash of conflicting interests of various social groups and their political preferences. The two main types of local democracy, the representative and the direct one, turn out to be insufficiently high-quality tools to obtain an effective result, that is, to achieve a balance of interests and develop an algorithm that will be supported by citizens. Consensus building is impossible in many cases.

All of the above phenomena are typical for countries with a high level of development of democracy and the desire of the state authorities to use the potential of the municipal power to optimize the quality of life throughout the country at a uniform level. They are all the more vividly manifested in the conditions of imperfect democracy developing over an insufficiently long period to obtain a high-quality result, as well as the democracy emerging in the unfavorable conditions of the absence of significant historical experience and the constant desire of the state to subdue the local power.

Our article will consider the following aspects of the problem:

1. The principle of subsidiarity as the general theoretical basis for the formation and development of “diverse democracy”.
2. The concept of “diverse (varied) democracy”. The practice of “diverse democracy” in European countries and contradictions in its manifestations.

3. Correlation of constitutional provisions in the RF with the principles of the European Charter of Local Self-Government which are objectively the basis of local democracy and its development in the future.
4. Possibilities of spreading of various forms of “diverse democracy” in Russian municipalities and forecasting of their impact on the political situation in the country as a whole, as well as on improving the quality of life of citizens.

2. Local democracy and municipal administration as a problematic field of studies of different scientific disciplines

It is increasingly difficult to single out the subject of research of one particular scientific discipline in the science of the XXI century. Analysis of the problems of local self-government as a political institution (a power entity) and as a level of public administration (local manager) includes an assessment of the political situation in the municipality (the process of determining and implementing the strategy of socio-economic development; formation of local self-government bodies, including by organizing and holding elections; the activities of political parties and public movements to pursue certain types of policy, building relationships with state authorities, both federal and regional, involving citizens in the process of political decision-making, etc.), identifying economic and financial problems (attraction of investments, formation and execution of the local budget, provision of tax incentives, etc.) and, finally, the social component (assessment of the effectiveness of local self-government activities in determining the achievement of the main goal: the optimal uniform quality of life both on the basis of objective quantitative indicators and according to the citizens' subjective opinion).

All these aspects are addressed in numerous studies. A brief overview of some of them will be given below. Throughout the entire period of development of local self-government in contemporary Russia, the problem of choosing a model for the national system of local self-government, as well as the direct model of governance for a particular municipality, remains relevant. This issue is addressed quite in detail and systematically by Elena Vodyanitskaya in her article “Local Government”¹.

The choice of the model is not the only political issue. Another issue of a pronounced political nature is that of the principles of the organization and functioning of local self-government which were formulated in the 1980ies and became the basic principles of the European Charter of Local Self-Government². At present the principle of the right to local self-government is formally enshrined in the Constitution of the RF (Art. 2, Chapter 1; Chapter 8). It has been similarly implemented in most countries that have signed the document. Much more problems are related with the implementation of the principles of general competence (giving substantial autonomy to municipalities) and subsidiarity (prohibiting the state to interfere in local government affairs without its own initiative). The principle of subsidiarity, its interpretation and the process of implementation, is the subject of a number of works by researchers from different countries. South African researcher Mayibuye Magwaza³ emphasizes the interrelation of this principle with its original idea of the Catholic social doctrine formulated by Pope Pius XIX in 1931, and the complexity of its implementation within the framework of the struggle of local self-government (hereinafter — LSG) for the right to provide services directly affecting the quality of life. The topical issues of understanding of the principle of subsidiarity both as a principle of decentralization of power and management with the transfer of powers to the local level, and as the moral basis for human dignity and the creation and distribution of public goods are considered by such authors as Australians J. Drew and B. Grant⁴, as well as by a group of researchers of the Council of Europe led by A. Delcamp⁵.

A major complex problem of the relationship between the levels of power and government is the subject of the book “Control and Power in the Relationship of the Central and Local Levels” by British

¹ Vodyanitskaya E. Local Government. Max Planck Encyclopaedia of Comparative Constitutional Law [Electronic resource]. December 2016. URL: https://mgimo.ru/upload/iblock/e67/MPECCOL_Local%20Government.pdf (accessed on: 05.11.2019).

² European Charter of Local Self-Government. Adopted by the Council of Europe 15.10.1985 [Electronic resource]. URL: <http://base.garant.ru/2540485/> (accessed on: 05.11.2019).

³ See: Magwaza M. Local Government and Subsidiarity. Southern African Catholic Bishops' Conference. July 2015 [Electronic resource]. URL: <http://www.cplo.org.za/wp-content/uploads/2018/01/BP-387-Subsidiarity-and-Local-Government-July-2015.pdf> (accessed on: 05.11.2019).

⁴ Drew J., Grant B. Subsidiarity: More than a Principle of Decentralization — a View from Local Government. *Publius: The Journal of Federalism*, Vol. 47, Is. 4, Fall 2017. P. 522–545.

⁵ Delcamp A. Definition and Limits of the Principle of Subsidiarity. *Local and Regional Authorities in Europe*, No. 55 [Electronic resource]. URL: <https://rm.coe.int/1680747fda> (accessed on: 17.11.2019).

scientist R. W. A. Rhodes [3] who defines these relationships as built on a rational basis in connection with the fact that all levels of the exercise of power proceed from the interests of development of the relevant political sphere, but emphasizes their “ambiguous” and “confused” nature manifested in the difficulties of exercising control, for example, over the spending of the local budget funds. The author’s conclusions are still relevant despite the rather long period that has passed since the publication of the book.

The numerous studies and analytical materials presenting topical problems of local self-government in various contexts of national states are devoted to both the development of local democracy (involvement of citizens in the local policy, transparency of the activities of local self-government bodies)⁶ and the process of providing municipal services as the basis for ensuring a high quality of life in the territory of the municipality and the observance of the citizens’ rights⁷. In the conditions of an unstable external environment (political, social, economic and natural), the ability of municipalities to boost the creativity of citizens and organizations to respond to the complex challenges of the relevant period (the concept of building resilience to external disturbances as a tool of municipal policy) acquires special significance⁸.

3. Principle of subsidiarity as the general theoretical basis for formation and development of “diverse democracy”

In the “state-centric” Russian thinking, the very idea of a “fishing rod” to be given to the hungry for them to catch fish themselves and satisfy their hunger, has not taken root over 26 years since the adoption of the current constitution. At present, citizens, especially older people, still have prevailing paternalistic expectations regarding the state, capable and ready to create favorable conditions for life, work and rest. Moreover, this does not mean the regulatory legal basis for active and effective activities, but social payments, free services and other forms of state support. In this context, residents least of all rely on the municipality, that is, the level of power closest to them, as a support: they expect help from the region (subject of the Russian Federation) at best, and more often from the federal center. Suffice it to recall in this regard the “Direct Lines” annually held by the President of the RF, an appeal to which usually leads to the solution to a problem that must often be solved by organizations and institutions, rather than by authorities, especially of this level.

The roots of the principle of subsidiarity go back to the remote past, but it is still relevant in the XXI century: in the new conditions of the increasingly widespread use of network structures and digital tools there is a growing demand for providing a person with independence in solving his problems and a delicate balance of all social processes with a view to forming the person’s ability for such functioning, as well as the ability to create groups to resolve both individual and collective problems. Self-government in the meaning of self-management and self-control, without which it creates additional threats and risks, are becoming the dominants of the contemporary world.

The past years have witnessed a certain progress in this area. For example, citizens have learned at least sometimes to go to court in acute situations, including the magistrate court, which is designed to resolve domestic and other relatively limited conflicts. They are also learning to be organized and united within self-organization to resolve local problems. However, municipal power is still perceived as something abstract, that is, incapable of effectively solving the problems of the territory. It is difficult to assess such a variant of local self-government as a “strong institution” in the sense that it plays a decisive role in ensuring the optimal uniform quality of life in the territory of the municipality.

The “power of local self-government” is significantly limited by the current state legislation. The adoption of FZ-154 “On the General Principles of Organization of Local Self-Government in the RF” in 1995 was a significant step in concretizing the provisions of the Constitution of the RF where the principle of subsidiarity was enshrined along with other principles of implementation of local self-government of the European Charter. However, further on, there was a significant shift from these principles, especially when the new federal law was adopted and enacted in 2003. The opinion that it was just a “revised

⁶ Adiputra I. M. P. et al. Transparency of Local Government in Indonesia [Electronic resource]. URL: www.emeraldinsight.com/24434175.htm (accessed on: 22.11.2019); Bradford A. Community Engagement and local Government. 2016 [Electronic resource]. URL: <https://ro.uow.edu.au/theses/4881/> (accessed on: 22.11.2019).

⁷ Council of Europe. Best Practice in Local Government. 2015 [Electronic resource]. URL: <https://rm.coe.int/bpp-best-practice-programme-for-local-governments/1680746d97> (accessed on: 18.11.2019); Atkins Gr. Et al. Performance Tracker 2019. A Data-Driven Analysis of the Performance of Public Services [Electronic resource]. URL: https://www.instituteforgovernment.org.uk/sites/default/files/publications/performance-tracker-2019_0.pdf (accessed on: 18.11.2019).

⁸ Robinson D., Platts-Fowler D. Community Resilience: a Policy Tool for Local Government? 2016 [Electronic resource]. URL: <http://shura.shu.ac.uk/12235/5/Robinson%20Community%20resilience.pdf> (accessed on: 05.12.2019).

version” seems absurd already after comparing Art.1 “Basic Notions and Terms” of FZ-154⁹ and Art.2 “Basic Notions and Terms” of FZ-131¹⁰.

Creation of a two-tier system of local self-government as a mandatory one for the entire territory of Russia excludes the possibility of subsidiary functioning and responsibility of municipalities in many regions, which is fully confirmed by the subsequent practice of law enforcement and the latest events of 2019: the adoption of an amendment to FZ-131 which consolidated the creation of a new type of a municipal entity, “municipal district”, for sparsely populated rural areas, which returns them to the single-tier system of FZ-154. Moreover, this system was not mandatory: the subjects of the RF had the right to determine the structures of local self-government in their territory independently.

4. Concept of “diverse (varied) democracy. Practice of “diverse democracy” in European countries and contradictions in its manifestation

The concept of “diverse” democracy introduced by the German researcher¹¹ seems fundamentally important and useful to us as a tool for analyzing the current processes both in Russia and in other countries. Carrying out the “catch-up” political and economic modernization, our country often forcibly resorts to innovative tools, as if “skipping” over a number of stages of development and progress towards the set goal. In the case of non-interference or very “soft” influence of the state, through legislation as the most general framework and providing the subjects of the RF with opportunities for a more complete consideration for their specific features, this could give positive results. In the case of tough, rather, administrative regulation and abandonment of the local initiative, the effectiveness of the introduction of a new autonomous institution of local government turned out to be minimal, while the content of the local government was emasculated.

However, as R. Roth shows in his work, having gone through several stages of development the “traditional” local self-government in Germany which embarked on this path much earlier [4], remains, firstly, a kind of a “chimera”, i.e. an institution with a twofold essence: political and administrative, and, secondly, the opportunities provided to citizens for active participation in making political, i.e., the most important decisions of strategic and tactical significance, do not satisfy their need for direct influence on the course of processes.

In this regard, representative (through local self-government bodies) and direct (within the framework of elections of local self-government bodies, referendums) democracy is supplemented with deliberative (advisory) instruments generally initiated by state bodies, local self-government bodies, as well as by various actors (for example, large private companies interested in active support from the population) in the implementation of large infrastructure and other projects that directly affect the interests of the population.

In cases when such instruments are not used, there are frequent protests, civil initiatives and social movements which the author also refers to as forms of “diverse democracy”. One of the most vivid examples of this kind was the mass protest of the residents of Stuttgart against the construction of a railway station in the city center which resulted in damage to its historical appearance and the environment¹².

Standing out among all the forms of “diverse democracy” is also the activity of citizens manifesting itself in a variety of forms that provide for the solution of seemingly small private problems (the concept of “small matters”). However, in a number of cases, it is this activity of one or several persons that becomes a support for an individual and forms the foundation of local self-government as a democratic institution capable of coming into play in situations when the state, due to its scale and much greater conservatism, does not “see” the problem or is not able and not ready to get involved in its solution.

In Italy, water supply was traditionally provided by many small municipal enterprises. Since the 90ies after the adoption of the Galli Act in 1994, the water supply was reorganized to stimulate competition and

⁹ On general principles of organization of local self-government in the Russian Federation: Federal Law of the RF dd. 28.08.1995 No. 154-FL. Repealed [Electronic resource]. URL: http://www.consultant.ru/document/cons_doc_LAW_7642/ (accessed on: 05.11.2019).

¹⁰ On general principles of organization of local self-government in the Russian Federation: Federal Law of the RF dd. 06.10.2003 No. 131-FL. Condition as of 04.12.2019 [Electronic resource]. URL: http://www.consultant.ru/document/cons_doc_LAW_44571/ (accessed on: 05.11.2019).

¹¹ “Diverse democracy” is a term introduced by German researcher Roland Roth in his work. See: *Roth, R. Kommunale Demokratie — Schimäre oder Hoffnungsträger?* In: *Kuhlmann S., Schwab O. (Hrsg.) Starke Kommunen — wirksame Verwaltung. Fortschritte und Fallstricke der internationalen Verwaltungs- und Kommunalforschung.* Wiesbaden : Springer, 2017. Pp. 143–171.

¹² The protests have continued for many years since the beginning of the construction in 2011. See: *Susanka S. Proteste gegen Stuttgart 21-400 Mal Unverständnis und Wut. 15-01-2018* [Electronic resource]. URL: <https://www.zdf.de/nachrichten/heute/vierhundertste-montagsdemo-gegen-stuttgart-21-100.html> (accessed on: 06.12.2019).

to create private enterprises like large French companies. Under the Berlusconi government, an attempt was made to prepare a legislative basis for the relevant reforms through the adoption of the Ronchi decree in 2009 aimed at broad privatization of the water supply. This development trend was opposed by the decisions of the national referendum on June 11, 2011 which ruled out the privatization of the water supply by an absolute majority. The political campaign preceding the referendum and initiated by the *Forum Italiano die Movimenti per l'Acqua*, a broad, largely left-wing movement comprising 150 municipalities and various political group, reflected the growing national and international politicization of the drinking water issue [5].

Such broad social movements and other forms of “diverse democracy” contain both great opportunities and serious dangers and risks, since they can lead to uncontrollable processes that require constant attention of local governments and their active participation.

5. Correlation between constitutional provisions and the principles of the European Charter of Local Self-Government objectively being the basis of this type of democracy and its development in the future

One of the main ideas of the European Charter is the independence of local self-government expressed in the principle of general competence, closely related to the principle of subsidiarity and arising from the principle of guarantee of the right to local self-government. In the Constitution of the RF of 1993, all three principles are enshrined in Art. 12 Ch. 1 “Foundations of the constitutional order” and in Ch. 8 “Local government”. However, the constitutional document also contains contradictions and potential conflicts as a kind of delayed-action mines that explode at acute moments. For example, the issues of organizing the system of local self-government are referred to joint jurisdiction of the Russian Federation and the subjects of the RF.

In the process of forming and changing the legislation throughout the entire period of the Constitution, this led to the replacement of 154-FL which generally conformed to the provisions of the Charter and the Constitution with 131-FL, its problems both in terms of law enforcement and formation of the correct understanding of the substance of local self-government being evidenced by irrefutable facts. The adoption of the law in 2003 was the starting point of this process. It took the subjects of the RF six years to form a system of local self-government in their territory in accordance with its provisions. Numerous amendments to the law were attempts to adapt it to reality.

The latest amendment which introduced a new type of municipal formation, a “municipal district”, which actually means the return of rural areas to a single-tier system, is another evidence of the imperfection of the law and its negative impact on the real processes¹³.

The idea of achieving a walking distance between LSG bodies and the population throughout the country, initially laid down in the law, was a priori impracticable, given the degree of diversity of the territorial structure and the settlement system. In the process of discussing the law (even before 2003), when asked about the walking distance, the head of the future rural settlement, Ust-Vym village of the Komi Republic, answered philosophically: “If it is summer, they will get there overnight, and in winter it is better to go by helicopter.”

It was 131-FL that led to the ultimate governmentalization of LSG and the emasculation of its functions, since the state represented by the federal center and the subjects of the RF, fails to fulfill its obligations (stipulated by the Charter) to financially support municipalities for high-quality solution of local issues by them. As for the cities of federal significance, the system created in them can hardly be considered to be local self-government, but is rather a continuation of the state power of the subject of the federation. This is also evidenced by the wording of local issues in the laws of the subjects.

6. Possibilities of spreading various forms of “diverse democracy” in Russian municipalities and forecasting their impact on the political situation in the country as a whole and on improving the quality of life of the citizens

Considering the forms of diverse (varied) democracy in Section 2, we tried to emphasize that at all stages of its history the institution of local self-government has had a dual nature: on the one hand, it was to consolidate the citizens' interests and serve as a kind of a mediator in their relations with the state. It was the municipal elections that turned into the most democratic procedure, since they often gave citizens an opportunity to choose people whom they knew well and whom they trusted to be their representatives.

¹³ See: *Kidyayev V.* The municipal scheme cannot be rebuilt with infringement of the rights of the population. 25.01.2019 [Electronic resource]. URL: <http://www.er-duma.ru/news/viktor-kidyayev-munitsipalnuyu-skhemu-nelzya-perestraivat-s-ushchemleniem-prav-naseleniya/> (accessed on: 05.11.2019).

It was municipal democracy in America that impressed French aristocrat Alexis de Tocqueville and made him believe in the possibility of democracy in principle. LSG became a school for future prominent political figures: Jacques Chirac (he was the first publicly elected mayor in the history of Paris); at the moment, former New York City mayor Michael Bloomberg has joined the presidential race in the United States.

However, local self-government also played a pragmatic role in ensuring the quality of life in the territory of the municipality, which is far from always possible for objective reasons, especially in the conditions of a strong modern infrastructure requiring high costs and large territories, as well as large masses of population (taxpayers). Back in the early XIX century the Prussian city regulations brought the cities of the kingdom out of the absolutely depressive state after the Napoleonic wars. The Russian county council whose political activities were resisted by the tsarist government in every way, nevertheless developed public education and health care, built schools and hospitals, and also dealt with statistics, recording crop failures, periods of hunger and demanding help to the peasants from the state, and it was destroyed by the totalitarian political regime just at the moment when it could begin full-fledged activities and gradually bring up independent and self-sufficient rural residents.

In the present conditions, local self-government can become a locomotive for the development and formation of a new attitude to life and to solving major problems of the modern society, including using new forms of democracy that arise in the context of globalization, information revolution, individualization of the process of making decisions and their implementation. Approaches, techniques and individual instruments may change, but the principles enshrined in the Charter are still relevant and should be the basis for the relations of the state power with the local authorities, as well as with the society and all groups of interests and social strata included in it.

7. Conclusions

The position of local self-government as a level of democratic government and a major actor in ensuring the optimal quality of life in the territory of the municipality is currently under threat. The crisis phenomena in the economies of most countries, financial deficits, the desire of states to strengthen control over the activities of municipal bodies often justified by the need to allocate subsidies, subsidies and subventions from the local budget, as well as citizens' dissatisfaction with the quality of life and their disbelief in the ability of the municipal government to conduct an effective policy independent from the state undermine the basic principles of its organization and functioning.

The essence of local self-government is being emasculated; it acquires a formal and increasingly abstract character. In different conditions, this can lead to directly opposite consequences, but in all cases this situation requires a search for new approaches to the implementation of local power and ensuring its autonomy, its real impact on the processes. Increasing the general activity of citizens and expanding the range of forms of their participation in making strategic and even tactical decisions, the desire of local government bodies to intensify the feedback with the local community and constant efforts for its closer integration are necessary to overcome, on the one hand, the social apathy and indifference to local problems, and on the other hand, to direct the protest activity which can take destructive and dangerous forms into a constructive direction.

In this regard, the concept of "civic culture" introduced by Gabriel Almond and Sydney Verba [1] in the 1960ies may become relevant again. A responsible, self-sufficient, active citizen also capable of acting within the framework of the law and at the same time capable of influencing the law should become the support of the municipality and the state in the process of achieving the main goal of the whole society as a whole: creating and maintaining an optimal uniform quality life in his municipality.

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